TO: Mail Stop 8

Director of the U.S. Patent & Trademark Office P.O. Box 1450 Alexandria, VA 22313-1450

REPORT ON THE FILING OR DETERMINATION OF AN ACTION REGARDING A PATENT OR TRADEMARK

In Compliance with 35 § 290 and/or 15 U.S.C. § 1116 you are hereby advised that a court action has been

| filed in the U.S. District Court Northern District of California on the following X Patents or Trademarks: | | | | | |
|--|-----------------------------|---------------------|-----------------------|--------------------|------------------|
| DOCKET NO. | DATE FILED | U.S. DIST | RICT COURT | | |
| CV 08-01423 HRL | 3/12/2008 | | 280 South First Str | reet, Rm 2112, San | Jose, CA 95113 |
| PLAINTIFF | | | EFENDANT | | |
| AUTHEN TEC, INC. | | | ATRUA TECHN | IOLOGIES, IN | IC. |
| | | | | | |
| | | : | | | |
| | | | | | |
| PATENT OR | DATE OF PATEN | Т | HOLDER OF | PATENT OR TRA | ADEMARK |
| TRADEMARK NO. | OR TRADEMARI | ζ | HODDER OF | | |
| 1 5,862,248 | | | SEE AT | TACHED COMPL | AINT |
| 2 6,667,439 | | | | | |
| 3 5,940,526 | | | | | |
| 4 | | | | | |
| | | <u> </u> | | | |
| 5 | | | | | |
| | | | | | |
| In the show | e—entitled case, the follow | vina notant(c) have | haan included: | | |
| | | wing patent(s) have | been metadea. | | |
| DATE INCLUDED | INCLUDED BY | Amendment | ☐ Answer ☐ | Cross Bill | ☐ Other Pleading |
| PATENT OR | DATE OF PATEN | | | | |
| TRADEMARK NO. | OR TRADEMARI | | HOLDER OF | PATENT OR TR | ADEMARK |
| | | | | | |
| 1 | | | | <u>.</u> | |
| 2 | | | | | |
| | | | | | |
| 3 | | | | • | |
| 4 | | | | | |
| 5 | | | | " | |
| | <u> </u> | <u> </u> | | | |
| | | | | | |
| In the above | e-entitled case, the follow | wing decision has b | een rendered or judge | ment issued: | |
| DECISION/JUDGEMENT | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | DATE | |
| CLERK | | (BY) DEPUTY C | | | DATE |
| Richard W. Wieking | | | Betty Walton | | March 13, 2008 |



8

9

10

12

13

14

16

17

18

19

20

Henry C. Bunsow (SBN 60707) bunsowh@howrey.com Denise M. DeMory (SBN 168076) demoryd@howrey.com HOWREY LLP 525 Market Street, Suite 360 San Francisco, California 94105 Telephone: (415) 848-4900 Facsimile: (415) 848-4999

ORIGINAL FILED

MAR 1 2 2008

Richard W. Wieking Clerk, U.S. District Court Northern District of California San Jose

Attorneys for Plaintiff AuthenTec, Ir

| IMITED | STATES | DISTRIC | T COURT |
|--------|--------|---------|---------|
| UNITED | DIVIED | DISTRIC | LCOOKI |

NORTHERN DISTRICT OF CALIFORNIA

SAN JOSE DIVISION

11

08 No. 01423 HRL

Plaintiff,

AuthenTec, Inc., a Delaware Corporation,

VS.

Atrua Technologies, Inc., a California Corporation,

Defendant.

COMPLAINT FOR PATENT INFRINGEMENT

DEMAND FOR JURY TRIAL

Plaintiff AuthenTec, Inc. ("AuthenTec") alleges the following in support of its Complaint for Patent Infringement and Demand for Jury Trial ("Complaint") against Defendant Atrua Technologies. Inc. ("Atrua"):

22

23

21

PARTIES

- 1. AuthenTec is a Delaware corporation having a principal place of business at 709 South 24 Harbor City Boulevard, Melbourne, Florida 32901.
- 2. On information and belief, Atrua is a California corporation having a principal place of 25 26 business at 1696 Dell Avenue, Campbell, California 95008.

27

28

HOWREY LLP

COMPLAINT FOR PATENT INFRINGEMENT AND DEMAND FOR JURY TRIAL

4 110,01040007

JURISDICTION

| | 3. | This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ |
|---------------|-------|--|
| 1331, 1338(| (a) ł | because this action arises under the patent laws of the United States, including 35 U.S.C. |
| §§ 101, et se | eq. | and 271, et seq. |

4. This Court has personal jurisdiction over Atrua because AuthenTec is informed and 6 believes that Atrua is incorporated in California and maintains its corporate headquarters in Campbell, California, which is located in this District.

VENUE

5. Venue is proper in this judicial District under 28 U.S.C. §§ 1391(b) and 1400(b) 10 because AuthenTec is informed and believes that a substantial part of the events giving rise to this claim occurred in this District, and Atrua has a regular and established place of business in this District.

INTRADISTRICT ASSIGNMENT

6. This action is an Intellectual Property Action that arises in Santa Clara County. 14 Pursuant to Civil L.R. 3-2(c) and (e), this action should be assigned to the San Jose Division.

COUNT 1

(Infringement of U.S. Patent No. 5,862,248)

- 7. Paragraphs 1 through 6 of the Complaint set forth above are incorporated herein by 18 reference.
- 8. On January 19, 1999, United States Patent No. 5,862,248 ("the '248 Patent") entitled "Integrated Circuit Device Having an Opening Exposing the Integrated Circuit Die and Related 21 Methods" was duly and legally issued to Matthew M. Salatino, S. James Studebaker, and Nicolaas W. VanVonno. The AuthenTec is the owner of all rights and interest in and to the '248 patent by assignment. A true and correct copy of the '248 Patent is attached hereto as Exhibit A.
- 9. Upon information and belief, Atrua has infringed and continues to infringe under 35 25 U.S.C. § 271 the '248 Patent. The infringing acts include, but are not limited to, importing, selling, and 26 offering for sale in the United States biometric products, systems, and devices, including fingerprint 27 sensors, that are covered by one or more claims of the '248 patent, and inducing and contributing to the

-2-

28

1

2

3

4

5

8

9

12

13

15

16

17

19

23

24

| 1 | infringement of such claims. Atrua has been offering and continues to offer for sale such products, |
|----|---|
| 2 | systems, and devices without the authorization of AuthenTec. |
| 3 | 10. Atrua's acts of infringement have caused damage to AuthenTec in an amount subject to |
| 4 | proof at trial. Under 35 U.S.C. § 284, AuthenTec is entitled to recover from Atrua the damages |
| 5 | sustained by AuthenTec as a result of Atrua's infringement of the '248 Patent. Atrua's infringement of |
| 6 | AuthenTec's exclusive rights under the '248 Patent will continue to damage AuthenTec's business, |
| 7 | causing it irreparable harm, for which there is no adequate remedy at law, unless enjoined by this Court |
| 8 | under 35 U.S.C. § 283. |
| 9 | 11. Upon information and belief, Atrua's infringement of the '248 Patent has been willful |
| 10 | and deliberate, and entitles AuthenTec to increased damages under 35 U.S.C. § 284 and attorneys' fees |
| 11 | and costs under 35 U.S.C. § 285 |
| 12 | COUNT 2 |
| 13 | (Infringement of U.S. Patent No. 6,667,439) |
| 14 | 12. Paragraphs 1 through 11 of the Complaint set forth above are incorporated herein by |
| 15 | reference. |
| 16 | 13. On December 23, 2003, United States Patent No. 6,667,439 ("the '439 Patent") entitled |
| 17 | "Integrated Circuit Package Including Opening Exposing Portion of an IC" was duly and legally issued |
| 18 | to Matthew M. Salatino and Patrick O. Weber. AuthenTec and Hestia Technologies, Inc. are the |
| 19 | owners of all rights and interest in and to the '439 patent by assignment. A true and correct copy of the |
| 20 | 439 Patent is attached hereto as Exhibit B. |
| 21 | 14. Upon information and belief, Atrua has infringed and continues to infringe under 35 |
| 22 | U.S.C. § 271 the '439 Patent. The infringing acts include, but are not limited to, importing, selling and |
| 23 | offering for sale in the United States biometric products, systems, and devices, including fingerprint |
| 24 | sensors, that are covered by one or more claims of the '439 patent, and inducing and contributing to the |
| 25 | infringement of such claims. Atrua has been offering and continues to offer for sale such products, |
| 26 | systems, and devices without the authorization of AuthenTec. |
| 27 | 15. Atrua's acts of infringement have caused damage to AuthenTec in an amount subject to |
| 28 | proof at trial. Under 35 U.S.C. § 284, AuthenTec is entitled to recover from Atrua the damages |
| | 11 |

HOWREY LLP

| 1 | sustained by AuthenTec as a result of Atrua's infringement of the '439 Patent. Atrua's infringement of |
|-----|---|
| 2 | AuthenTec's exclusive rights under the '439 Patent will continue to damage AuthenTec's business, |
| 3 | causing it irreparable harm, for which there is no adequate remedy at law, unless enjoined by this Court |
| 4 | under 35 U.S.C. § 283. |
| 5 | 16. Upon information and belief, Atrua's infringement of the '439 Patent has been willful |
| 6 | and deliberate, and entitles AuthenTec to increased damages under 35 U.S.C. § 284 and attorneys' fees |
| 7 | and costs under 35 U.S.C. § 285. |
| 8 | COUNT 3 |
| 9 | (Infringement of U.S. Patent No. 5,940,526) |
| 10 | 17. Paragraphs 1 through 16 of the Complaint set forth above are incorporated herein by |
| 11 | reference. |
| 12 | 18. On December 23, 2003, United States Patent No. 5,940,526 ("the '526 Patent") entitled |
| 13 | "Electric Field Fingerprint Sensor Having Enhanced Features and Related Methods" was duly and |
| 14 | legally issued to Dale R. Setlak, Nicolaas W. VanVonno, Rex Lowther, and Dave Gebauer. AuthenTec |
| 15 | is the owner of all rights and interest in and to the '526 patent by assignment. A true and correct copy |
| 16 | of the '526 Patent is attached hereto as Exhibit C. |
| 17 | 19. Upon information and belief, Atrua has infringed and continues to infringe under 35 |
| 18 | U.S.C. § 271 the '526 Patent. The infringing acts include, but are not limited to, importing, selling and |
| 19 | offering for sale in the United States biometric products, systems, and devices, including fingerprint |
| 20 | sensors, that are covered by one or more claims of the '526 patent, and inducing and contributing to the |
| 21 | infringement of such claims. Atrua has been offering and continues to offer for sale such products, |
| 22 | systems, and devices without the authorization of AuthenTec. |
| 23 | 20. Atrua's acts of infringement have caused damage to AuthenTec in an amount subject to |
| 24 | proof at trial. Under 35 U.S.C. § 284, AuthenTec is entitled to recover from Atrua the damages |
| 25 | sustained by AuthenTec as a result of Atrua's infringement of the '526 Patent. Atrua's infringement of |
| 26 | AuthenTec's exclusive rights under the '526 Patent will continue to damage AuthenTec's business, |
| 27 | causing it irreparable harm, for which there is no adequate remedy at law, unless enjoined by this Court |
| | under 35 U.S.C. § 283. |
| LLP | |

| 1 | 21. Upon information and belief, Atrua's infringement of the '526 Patent has been willful |
|------------|---|
| 2 | and deliberate, and entitles AuthenTec to increased damages under 35 U.S.C. § 284 and attorneys' fees |
| 3 | and costs under 35 U.S.C. § 285. |
| 4 | PRAYER FOR RELIEF |
| 5 | WHEREFORE, AuthenTec respectfully requests that this Court enter judgment against Atrua |
| 6 | as follows: |
| 7 | a) For judgment that Atrua has infringed and continues to infringe the '248 Patent, the |
| 8 | '439 Patent, and the '526 Patent; |
| 9 | b) For preliminary and permanent injunctions under 35 U.S.C. § 283 against Atrua and its |
| 10 | directors, officers, employees, agents, servants, subsidiaries, parents, successors, assigns, attorneys, |
| 11 | and all persons acting in concert, on behalf of, in joint venture with, or in partnership with Atrua from |
| 12 | further infringing acts; |
| 13 | c) For damages to be paid by Atrua adequate to compensate AuthenTec for Atrua's |
| 14 | infringement, including interests, costs, and disbursements as the Court may deem appropriate under |
| 15 | 35 U.S.C. § 284; |
| 16 | d) For judgment finding that Atrua's infringement was willful and deliberate, entitling |
| 17 | AuthenTec to increased damages under 35 U.S.C. § 284; |
| 18 | e) For judgment finding this to be an exceptional case, and awarding AuthenTec attorneys' |
| 19 | fees and costs under 35 U.S.C. § 285; and |
| 20 | f) For such other and further relief at law and in equity as the Court may deem just and |
| 21 | proper. |
| 22 | |
| 23 | |
| 24 | |
| 25 | |
| 26 | |
| 27 | |
| 28 | |
| HOWREY LLP | COMPLAINT FOR PATENT INFRINGEMENT AND -5- DEMAND FOR JURY TRIAL |

DIA 110.01040026 1

| 1 | 1 Dated: March 12, 2008 | Respectfully submitted, |
|----|-------------------------|--|
| 2 | 2 | BV: |
| 3 | 3 | Henry C. Bunsow (SBN 60707) |
| 4 | 4 | bunsowh@howrey.com Denise M. DeMory (SBN 168076) |
| 5 | 5 | demoryd@howrey.com HOWREY LLP |
| 6 | 6 | 525 Market Street, Suite 3600 San Francisco, California 94105 |
| 7 | 7 | Telephone: (415) 848-4900 Facsimile: (415) 848-4999 |
| 8 | 8 | •. |
| 9 | 9 | Attorneys for Plaintiff AuthenTec, Inc. |
| 10 | 0 | |
| 11 | 1 | |
| 12 | 2 | |
| 13 | 3 | |
| 14 | 4 | |
| 15 | 5 | |
| 16 | 5 | |
| 17 | 7 | |
| 18 | | |
| 19 | | |
| 20 | • | |
| 21 | | |
| 22 | | |
| 23 | | |
| 24 | | |
| 25 | | |
| 26 | | |
| 27 | , | |
| 28 | 3 | |

HOWREY LLP

DN4 130-030400376 1

1 **DEMAND FOR JURY TRIAL** AuthenTec hereby demands a trial by jury on all issues set forth in its Complaint for Patent 2 Infringement pursuant to Fed. R. Civ. P. 38 and Civ. L.R. 3-6. 3 Dated: March 12, 2008 Respectfully submitted, 5 6 Henry C. Bunsow (SBN 60707) bunsowh@howrey.com 7 Denise M. DeMory (SBN 168076) demoryd@howrey.com 8 **HOWREY LLP**

> 525 Market Street, Suite 3600 San Francisco, California 94105 Telephone: (415) 848-4900 Facsimile: (415) 848-4999

Attorneys for Plaintiff AuthenTec, Inc.

COMPLAINT FOR PATENT INFRINGEMENT AND DEMAND FOR JURY TRIAL

A 110,01040002 1